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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,920	06/27/2003	Christopher M. Edwards	ED 002	8110
23408	7590	08/16/2004	EXAMINER	
GARY C COHN, PLLC 4010 LAKE WASHINGTON BLVD., NE #105 KIRKLAND, WA 98033			GREEN, BRIAN	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,920

Applicant(s)

EDWARDS, CHRISTOPHER M.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Specification***

The abstract of the disclosure is objected to because on lines 3-4, the following phrase is awkward “ can also be the flexible, resilient material”. On line 5, the following phrase is awkward “polymer layer.used to affix”. On line 6, the following phrase is awkward “or to carry printed or other matter”. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: In the specification, page 3, under “Brief Description of the Drawings”, the description for figure 5A should start on a new line and not be combined with the description for figure 5.

Appropriate correction is required.

Claim Objections

Claims 9-16 are objected to because of the following informalities: In claim 9, line 3, and claim 14, line 3, “such openings” should apparently be “the openings” to make it clear that the applicant is referring to the openings already defined. In claim 9, line 5, “opening” should be “openings”. In claim 14, last line, “of strands” should apparently be “of the strands” and “the opening” should apparently be “the openings”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hisatomi et al. (U.S. Patent No. 5,177,890).

Hisatomi et al. shows in figures 10-12 a flat tile (50) of a flexible, elastic material (see column 6, lines 6-29) having a body portion in the shape of a parallelogram and tabs (the portions extending outwardly from each of the grooves 52 on each of the sides). In regard to claim 2, Hisatomi et al. discloses in column 6, lines 23-27 that the tiles are deformable by hand. In regard to claim 3, Hisatomi et al. discloses in column 6, lines 10-15 that the tiles are formed of a synthetic resin. In regard to claim 4, Hisatomi et al. shows in figure 10 that the tiles are generally square shaped. In regard to claim 9, the tiles (50) are placed within openings in the wire mesh. In regard to claim 10, the wire mesh is a chain link fence. In regard to claims 13 and 15, Hisatomi et al. shows in figure 1 the idea of forming a pattern, design, or symbol with the tiles. In regard to claim 16, as broadly defined, the tiles attach paint or dyes to the wire mesh, see column 8, lines 25-34. The paint or dyes are considered to be the object attached to the wire mesh.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Horton (U.S. Patent No. 2,111,780).

Horton shows in figures 1-4 a flat tile (7 or 9) of a flexible, elastic material (see page 1, column 1, lines 51-55 and column 2, lines 1-5) having a body portion in the shape of a parallelogram and tabs (in figure 2, tabs 8 and the upper and lower portions are

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considered tabs, in figure 4, tabs 10,11,12). In regard to claim 2, the tiles are deformable by hand.

Claims 1,2, and 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Newell, Jr. (U.S. Patent No. 1,004,810).

Newell, Jr. shows in figure 9 a flat tile (17) of a flexible, elastic material (sheet metal is known to be flexible and elastic) having a body portion in the shape of a parallelogram and tabs (18,18,19,19). In regard to claim 2, the tiles are deformable by hand. In regard to claim 9, the tiles (17) are placed within openings in the mesh and as shown in figures 1 and 6 substantially cover the openings. In regard to claim 10, the wires (23,24) form a mesh which is considered to be a "chain link fence". In regard to claim 11, the body portion is substantially square. In regard to claims 13 and 15, Newell, Jr. shows in figures 1 and 6 the idea of forming a pattern, design, or symbol with the tiles. In regard to claim 16, as broadly defined, the tiles (17) attach back portions (16, object) to the wire mesh.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 9-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Snow et al. (U.S. Patent No.6,669,175).

Snow et al. shows in figures 1-12 a flat tile (10) of a flexible, elastic material (column 5, lines 1-8) having a body portion in the shape of a parallelogram and tabs (the portions on opposite sides of the recesses 24,24,28,28). In regard to claim 2, the tiles are

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deformable by hand. In regard to claim 3, the tiles (10) are formed of a polymer material, see column 5, lines 1-8. In regard to claim 4, the tiles are considered to be roughly square. In regard to claim 9, the tiles (10) are placed within openings in the mesh and as shown in figures 3,5,6, and 7 substantially cover the openings. In regard to claim 10, the wires form a chain link fence (12). In regard to claim 11, the body portion is substantially square. In regard to claims 13 and 15, Snow et al. shows in figure 12 the idea of forming a pattern, design, or symbol with the tiles. In regard to claim 16, as broadly defined, the tile (10) help to attach an object (one of the other tiles 10) to the wire mesh.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hisatomi et al. (U.S. Patent No. 5,177,890).

Hisatomi et al. discloses the applicant's basic inventive concept in figures 10-12 except for whether the sides are 1 to 2-3/8 inches and the tabs extending 1/4 to 3/4 inches from the sides. It would have been obvious to one in the art to modify Hisatomi et al. by making the sides 1 to 2-3/8 inches and the tabs 1/4 to 3/4 inches since this would allow the tiles to be secured to a typical sized wire mesh fence and further it is considered within one skilled in the art to make the sides and tabs any size as desired. In regard to claim 8, it is considered within one skilled in the art to modify Hisatomi et al. by making the

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thickness of the tiles between .005 to .075 inches since this would allow the tiles to be flexible enough to flex onto the wire mesh and it is it considered within one skilled in the art to vary the thickness of the tiles as desired.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell, Jr. (U.S. Patent No. 1,004,810).

Newell, Jr. discloses the applicant's basic inventive concept except for whether the sides are 1 to 2-3/8 inches and the tabs extending 1/4 to 3/4 inches from the sides. It would have been obvious to one in the art to modify Newell, Jr. by making the sides 1 to 2-3/8 inches and the tabs 1/4 to 3/4 inches since this would allow the tiles to be secured to a given sized wire mesh and further it is considered within one skilled in the art to make the sides and tabs any size as desired. In regard to claim 8, it is considered within one skilled in the art to modify Newell, Jr. by making the thickness of the tiles between .005 to .075 inches since this is within the range of the typical thickness of sheet metal and it is it considered within one skilled in the art to vary the thickness of the tiles as desired.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell, Jr. (U.S. Patent No. 1,004,810) in view of Snow et al. (U.S. Patent No. 6,669,175).

Newell, Jr. discloses the applicant's basic inventive concept except for making the material from a polymer sheet material. Snow et al. shows in figures 1-12 tiles that are made from a flexible, resilient polymer sheet material, see column 5, lines 1-8. In view of the teachings of Snow et al. it would have been obvious to one in the art to modify

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Newell, Jr. by making the tiles from a polymer sheet material since this would make the tiles more durable and weather resistant and would allow the tiles to be made in an easier and faster manner. In regard to claim 4, the applicant is not positively claiming the strand mesh so the shape of the openings is immaterial and further Newell, Jr. shows in figures 1 and 6 that the openings are generally square and shows in figure 9 that the tiles are generally square. In regard to claim 5, Newell, Jr. discloses the applicant's basic inventive concept except for whether the sides are 1.5 to 1.7 inches and the tabs extending .5 to about .75 inches from the sides. It would have been obvious to one in the art to modify Newell, Jr. by making the sides 1.5 to 1.7 inches and the tabs .5 to about .75 inches since this it is considered within one skilled in the art to make the sides and tabs any size as desired.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snow et al. (U.S. Patent No. 6,669,175).

In regard to claim 5, Snow et al. discloses the applicant's basic inventive concept except for whether the sides are 1.5 to 1.7 inches and the tabs extending .5 to about .75 inches from the sides. It would have been obvious to one in the art to modify Snow et al. by making the sides 1.5 to 1.7 inches and the tabs .5 to about .75 inches since this it is considered within one skilled in the art to make the sides and tabs any size as desired. In regard to claim 6, Snow et al. discloses the applicant's basic inventive concept except for whether the sides are 1 to 2-3/8 inches and the tabs extending $\frac{1}{4}$ to $\frac{3}{4}$ inches from the sides. It would have been obvious to one in the art to modify Snow et al. by making the sides 1 to 2-3/8 inches and the tabs $\frac{1}{4}$ to $\frac{3}{4}$ inches since this would allow the tiles to be

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secured to a typical sized wire mesh fence and further it is considered within one skilled in the art to make the sides and tabs any size as desired. In regard to claim 8, it is considered within one skilled in the art to modify Snow et al. by making the thickness of the tiles between .005 to .075 inches since this would allow the tiles to be flexible enough to flex onto the wire mesh and it is it considered within one skilled in the art to vary the thickness of the tiles as desired.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Veenstra teaches the use of a device for securing an object to a chain link fence.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
Aug. 6, 2004